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J. GERARD ZOBY  
(1942-2007)

April 8, 2020

The Honorable Arenda L. Wright-Allen, District Judge  
United States District Court  
Eastern District of Virginia  
600 Granby Street  
Norfolk, VA 23510

Re: United States v. Robert McCabe and Gerard Boyle  
Case No.: 2:19cr171

Dear Judge Wright-Allen:

We are in receipt of the government's supplemental status report which seems to characterize our statement of Mr. Boyle's proffer with the government as insufficient. This is most surprising since the government conducted the proffer and is most familiar with the entire nineteen (19) pages of the FBI's 302 and the multiple hours it spanned.

If the Court chooses to review the proffer in camera, we would be glad to make it available so the Court can be in the same position as defendant McCabe and the government in its knowledge of the contents of Mr. Boyle's proffer.

Finally, in Mr. Boyle's supplemental status report he again states that, in the event Mr. Boyle is tried first, he would assert his Fifth Amendment privilege against self-incrimination in any subsequent trial of McCabe. As the Court well knows, if Mr. Boyle testifies at his trial he would waive any ability to assert the privilege in the future. Further, if Mr. Boyle is acquitted at trial, he will have no Fifth Amendment privilege to assert as he could no longer incriminate himself with respect to his dealings with Mr. McCabe.

Thank you for your consideration.

Respectfully submitted,

Robert James McCabe  
By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on the 8 day of April, 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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